



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

## **MEMORANDUM**

**Date:** July 11, 2016

**To:** Robert Best, Chairman, & Members, Planning Board

**From:** Jillian M. Harris, AICP, Planning & Zoning Administrator

**Subject:** **Eric C. Mitchell & Associates Inc. (applicant) and Charles Morgan (owner)** – Review for acceptance and consideration of Final Approval for a modification to a previously approved site plan to revise a sidewalk location and easement. The parcel is located at 526 D.W. Highway in the C-2 (Commercial) and Aquifer Conservation Districts, Wellhead Protection Area, 100-year and 500-year Flood Hazard Areas. Tax Map 5D-2, Lot 001.

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### **Background**

The subject property is an 8.353 acre parcel located at 526 DW Highway in the C-2 (General Commercial) District and Elderly, Aquifer Conservation, and Wellhead Protection Overlay Districts. The property is serviced by public water (MVD) and sewer. The site is abutted by commercial property to the east, Eversource (PSNH) property to the west, commercial and multifamily residential to the south, and the FE Everett Turnpike to the north.

The property is currently the site of Vault Motor Storage (formerly Zylas) and the previously approved plan for a 44,000 s.f. building located in the back of the lot for additional storage of vehicles, boats and RV's received a certificate of occupancy in February 2016. Due to the timing of the occupancy of the facility, the applicant was unable to complete the required landscaping and other site improvements (reclaimed asphalt sidewalk, pavement markings, loam and seed) that were associated with the approved site plan and therefore escrow was received as surety until those improvements could be completed.

As the remaining improvements were being completed the placement of the 5' wide reclaimed asphalt sidewalk within the easement area along the northerly frontage of the property became an issue because of 2 large trees in the easement area. In order to avoid cutting the trees down so the sidewalk can be placed within the easement area, the applicant proposes to modify the easement area along the northerly frontage of the property in order to move the sidewalk placement behind the existing trees.

Department of Public Works recommends that the trees should be cut to allow for the sidewalk as originally approved – installing sidewalk near existing trees poses maintenance issues arising from roots growing and disturbing the sidewalk, making it difficult for ADA concerns/tripping hazards. Widening the sidewalk easement would allow the sidewalk to meander, making it more difficult to maintain in the winter and potentially making future connections north of this parcel difficult if not brought back to the property line.

### **Completeness**

Not applicable, as this is an amendment to a previously approved project

**Waivers**

None requested.

**Should any waivers be determined necessary, staff recommends *that they be provided in writing to the Board*, and that the Board vote with respect to any requested waivers utilizing the criteria from RSA 674:44:**

- Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; **or**
- Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

**Recommendation**

**Staff recommends, based on feedback and concerns raised by the Public Works Director, that the easement area should remain as is on the previously approved plan and the trees should be cut and stumped so the sidewalk can be placed in the easement area as approved by the Board previously.**

**Should the Board disagree with staff and vote to approve the modification, Staff recommends that it should be granted with the following precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified:**

1. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars;
2. The applicant shall indicate any proposed easements on the plan, as applicable. A draft copy of any proposed easements and any applicable legal documents to be submitted to the Community Development Department for review and approval by the town's legal counsel (legal review shall be performed at the applicant's expense);
3. The applicant shall address the following Planning Staff Technical Comments:
  - a. Note 8 to be revised to state "Approved with conditions June 2, 2015." Conditions to be indented under Note 8 to read a) Cross-walk striping will be placed across driveways and striping to extend along paved area of the frontage to delineate the walkway b) Snow will be removed in a timely manner from the sidewalk easement area at the owners expense c) a 5' wide reclaimed asphalt pavement sidewalk will be placed and maintained by the owner within the sidewalk easement area from the northerly property line to the crosswalk area of the northerly driveway;
  - b. Proposed sidewalk location within the easement area should be depicted on the plans.

**Staff also recommends that the following general and subsequent condition be placed on the approval:**

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;

Cc: Planning Board File  
Correspondence

Ec: Eric C. Mitchell & Associates Inc. (applicant)  
Charles Morgan (owner)  
Building Department Staff  
Kyle Fox, Public Works Department

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